

THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Ohio Coal Association, et al.	:	Case No. <u>14-cv-2646</u>
Plaintiff(s)	:	District Judge: <u>Graham</u>
	:	Magistrate Judge: <u>Preston Deavers</u>
vs.	:	
Thomas E. Perez, Secretary of Labor, et al.	:	RULE 26(f) REPORT OF PARTIES
Defendant(s)	:	(to be filed no fewer than seven (7)
	:	days prior to the Rule 16 Conference)
	:	

1. Pursuant to F.R. Civ.P. 26(f), a meeting was held on June 16, 2015 and was attended by:

Avi Meyerstein (Jackson Lewis), counsel for plaintiff(s) _____
_____, counsel for plaintiff(s) _____
Alice LaCour (USDOJ), counsel for defendant(s) _____
_____, counsel for defendant(s) _____

2. **Consent to Magistrate Judge.** The parties:

___ unanimously consent to the jurisdiction of the United States Magistrate Judge pursuant to 28 U.S.C. 636 (c).
x do not unanimously consent to the jurisdiction of the United States Magistrate Judge pursuant to 28 U.S.C. 636 (c).

3. **Initial Disclosures.** The parties:

___ have exchanged the initial disclosures required by Rule 26(a)(1);
___ will exchange such disclosures by _____
x are exempt from such disclosures under ~~Rule 26(a)(1)(E)~~. Rule 26(a)(1)(B)(i)
___ have agreed not to make initial disclosures.

4. **Jurisdiction and Venue**

a. Describe any contested issues relating to: (1) subject matter jurisdiction, (2) personal jurisdiction and/or (3) venue:

Pending before the Court is Defendants' motion to dismiss for lack of subject matter
jurisdiction, and in the alternative, for failure to state a claim.
Plaintiffs filed an opposition to this motion and Defendants' reply is due July 20, 2015.

b. Describe the discovery, if any, that will be necessary to the resolution of issues relating to jurisdiction and venue:

The parties agree that there is no need for discovery or trial in this case since this is a rulemaking challenge suitable for review on the administrative record and applicable law.

c. Recommended date for filing motions addressing jurisdiction and/or venue:

Defendants' motion to dismiss for lack of subject matter jurisdiction is pending before the Court.

5. Amendments to Pleading and/or Joinder of Parties

a. Recommended date for filing motion/stipulation to amend the pleadings or to add additional parties: none

b. If class action, recommended date for filing motion to certify the class: n/a

6. Recommended Discovery Plan

a. Describe the **subjects** on which discovery is to be sought and the nature and extent of discovery that each party will need:

The parties have agreed that there is no need for discovery in this case.

b. What **changes** should be made, if any, in the limitations on discovery imposed by the Federal Rules of Civil Procedure or the local rules of this Court?

The parties have agreed that there is no need for discovery in this case.

c. The case presents the following issues relating to disclosure or discovery of **electronically stored information**, including the form or forms in which it should be produced:

The parties have agreed that there is no need for discovery in this case.

d. The case presents the following issues relating to claims of **privilege or of protection as trial preparation materials**:

The parties have agreed that there is no need for discovery or trial in this case.

i. Have the parties agreed on a procedure to assert such claims **AFTER** production? n/a

 No

 Yes

 Yes, and the parties ask that the Court include their agreement in an Order.

e. Identify the discovery, if any, that can be **deferred** pending settlement discussion and/or resolution of potentially dispositive motions:

The parties have agreed that there is no need for discovery in this case.

f. The parties recommend that discovery should proceed in **phases**, as follows:

The parties have agreed that there is no need for discovery in this case.

g. Describe the areas in which **expert testimony** is expected and indicate whether each expert will be specially retained within the meaning of F.R.Civ.P.26(a)(2):

The parties have agreed that there is no need for discovery in this case.

i. Recommended date for making **primary expert designations**:

n/a

ii. Recommended date for making **rebuttal expert designations**:

n/a

h. Recommended discovery **completion date**: n/a

7. **Dispositive Motion(s)**

- a. Recommended date for filing dispositive motions: A motion to dismiss is pending before the court.

8. **Settlement Discussions**

- a. Has a settlement demand been made? No. A response? _____
- b. Date by which a settlement demand can be made: _____
- c. Date by which a response can be made: _____

9. **Settlement Week Referral**

The earliest Settlement Week referral reasonably likely to be productive is the n/a

____ March 20____ Settlement Week

____ June 20____ Settlement Week

____ September 20____ Settlement Week

____ December 20____ Settlement Week

10. **Other matters for the attention of the Court:**

Signatures:

Attorney(s) for Plaintiff(s):

/s/Scott A. Carroll
Ohio Bar# 0062115
Trial Attorney for Plaintiffs

/s/Kimberly B. Bakota
Ohio Bar# 0082571
Trial Attorney for Plaintiffs

/s/Avi Meyerstein, /s/Henry Chajet, /s/ Mark Savit
Ohio Bar# admitted pro hac vice
Trial Attorney for Plaintiffs

Ohio Bar# _____
Trial Attorney for _____

Attorney(s) for Defendant(s):

/s/ Alice Shih LaCour
Ohio Bar# Texas Bar# 24083839 (pursuant to L.R. 83.3(c)(3))
Trial Attorney for Defendants

Ohio Bar# _____
Trial Attorney for _____

Ohio Bar# _____
Trial Attorney for _____

Ohio Bar# _____
Trial Attorney for _____